

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

KENNEY KUNTE SMITH

§

VS.

§

CIVIL ACTION NO. 9:18-CV-191

DIRECTOR, TDCJ-CID

§

MEMORANDUM OPINION & ORDER

Petitioner, Kenney Kunte Smith, an inmate confined at the Polunsky Unit with the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, filed this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

Discussion

Petitioner submitted his prisoner trust fund account statement on October 16, 2018 (docket entry no. 2). This Court liberally construes the statement as a motion to proceed *in forma pauperis*. A review of the statement reveals that petitioner has maintained a six month average deposit of \$26.13 and a six month average balance of \$71.77. Petitioner has a current balance of \$91.00

Since 1892, Congress has permitted indigent persons to bring lawsuits in federal courts without prepayment of filing fees. Act of July 20, 1892, ch. 209.27 Stat. 252 (codified, as amended, at 28 U.S.C. § 1915). The applicable statute is intended to provide access to the federal courts for litigants who lack financial resources to pay any part of the statutory filing costs. However, a district court may order users of the courts to pay the filing fees when they are financially able to do so. *See Williams v. Estelle*, 681 F.2d 946 (5th Cir. 1982).

Based on petitioner's six month average deposits and balance, petitioner should pay the \$5.00 filing fee in this action. Accordingly, petitioner will be denied leave to proceed *in forma pauperis* and directed to pay the \$5.00 filing fee.

ORDER

For the reasons set forth above, petitioner's application to proceed *in forma pauperis* is **DENIED**. Petitioner shall pay the \$5.00 filing fee within thirty (30) days from the date set forth below.

So Ordered and Signed

Nov 14, 2018



Ron Clark, Senior District Judge